

## **Senate Bill No. 45**

### **CHAPTER 635**

An act to amend Sections 1, 2, 3, 9, and 10 of Chapter 67 of the Statutes of 2007, relating to private postsecondary education, and making an appropriation therefor.

[Approved by Governor October 13, 2007. Filed with  
Secretary of State October 13, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 45, Perata. Private postsecondary education.

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and is to be repealed on January 1, 2008, generally set minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act established the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The former act established the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The former act specified that certain violations of its provisions were subject to civil penalties and that certain willful violations of the act were punishable as crimes.

Existing law expresses the intent of the Legislature to provide for the protection of the interests of students who, and institutions which, have pending matters, or any other pending business, before the former bureau as of June 30, 2007.

Existing law requires that each matter, as defined, pending before the former bureau as of the close of business on June 30, 2007, be deemed to remain pending before the bureau or a successor agency as of February 1, 2008, irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, existing law requires that no time be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive. Existing law requires that any institution, program, or course of study that is approved by the former bureau, or authorized as prescribed, as of the close of business on June 30, 2007, be deemed to be approved as of February 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. Existing law also requires that, with respect to any deadline applicable to the approval or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive.

This bill would extend these provisions so that they apply until July 1, 2008.

(2) Existing law authorizes the Director of Consumer Affairs to enter into voluntary agreements with institutions that state that the institutions agree to comply with state statutes, rules, and regulations applicable to these institutions as of June 30, 2007. Existing law requires institutions to disclose to their current and prospective students in writing, within 60 days of the effective date of the bill, whether they entered into, or declined to enter into, a voluntary agreement with the director. These provisions are repealed on February 1, 2008.

This bill would extend these provisions by 5 months, providing for their repeal on July 1, 2008.

This bill would authorize accredited institutions to make specified modifications in their programs with the approval of their accrediting agencies. The bill would authorize the Board of Barbering and Cosmetology to approve a school meeting prescribed criteria.

These provisions would be repealed on July 1, 2008.

(3) The bill would, until July 1, 2008, continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an appropriation.

(4) Existing law continues the approval of private postsecondary institutions for specified purposes until July 1, 2008.

This bill would extend that approval until January 1, 2009.

(5) The bill would establish a Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The bill would specify the duties of the bureau, and would authorize the Director of Consumer Affairs to delegate his or her duties under this bill to a bureau chief, who would be appointed by the Governor and confirmed by a vote of a majority of the membership of the Senate.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1 of Chapter 67 of the Statutes of 2007 is amended to read:

Section 1. (a) It is the intent of the Legislature to provide, through the enactment of subdivision (b), for the protection of the interests of students and institutions having any matter pending before the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007. The Legislature further encourages the Department of Consumer Affairs to provide information to students and institutions during this time period to ensure their understanding of their rights and responsibilities, and that student complaints received during this time period continue to be duly recorded and, to the extent practicable, investigated, so that no Californian is harmed by the delay in the provision of full services.

(b) Notwithstanding any other provision of law:

(1) Each matter pending before the Bureau for Private Postsecondary and Vocational Education as of the close of business on June 30, 2007, shall be deemed to remain pending before the bureau or a successor agency as of July 1, 2008, irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, no time shall be deemed to have elapsed between July 1, 2007, and July 1, 2008, inclusive.

(A) For the purposes of this paragraph, “matter” includes, but is not necessarily limited to, an appeal, a complaint, an evaluation, a hearing, or an investigation.

(B) For the purposes of this paragraph, “matter” does not include a Student Tuition Recovery Fund Claim. Nothing in this paragraph shall be construed to prevent the payment of existing Student Tuition Recovery Fund claims that have been filed with the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007.

(2) Any institution, program, or course of study that is approved by the bureau or authorized pursuant to former Section 94905 of the Education Code, as it read on June 30, 2007, as of the close of business on June 30, 2007, shall be deemed to be approved as of July 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. With respect to any deadline applicable to the approval, renewal of approval, or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and July 1, 2008, inclusive.

(3) From July 1, 2007, to July 1, 2008, inclusive, the Director of Consumer Affairs may enter into voluntary agreements with institutions that state that the institutions agree to comply with state statutes, rules, and regulations pertaining to private postsecondary institutions or pertaining to non-WASC regionally accredited institutions as defined in former Section 94740.5 of the Education Code, as it read on June 30, 2007, for the purpose of ensuring continued student protection after former Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it read on June 30, 2007, became inoperative.

(4) From July 1, 2007, to July 1, 2008, inclusive, the Director of Consumer Affairs shall administer the Student Tuition Recovery Fund.

SEC. 2. Section 2 of Chapter 67 of the Statutes of 2007 is amended to read:

Sec. 2. (a) The Private Postsecondary and Vocational Education Administration Fund is continued in existence under the administration of the Department of Consumer Affairs.

(b) (1) The Student Tuition Recovery Fund is continued in existence under the administration of the Department of Consumer Affairs. The fund shall consist of only one educational institution account for payment of approved claims.

(2) The moneys in the Student Tuition Recovery Fund are continuously appropriated, without regard to fiscal years, to the Director of Consumer Affairs for the purpose of paying claims that were filed with the former

Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, under the provisions of former Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it read on June 30, 2007. A claim that has been filed with the Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, but not paid by the Director of Consumer Affairs between July 1, 2007, and July 1, 2008, inclusive, shall be deemed pending before a successor agency on July 1, 2008.

(3) From July 1, 2007, to July 1, 2008, inclusive, an institution is not liable for payments to the Student Tuition Recovery Fund. During that period, an institution shall not collect money from its students for purposes of making payments to that fund. If any collections are made for an academic term falling within that period, the institution making the collection shall refund those moneys to the student from whom they were collected. Any funds collected by an institution from its students for the purposes of making payments to the Student Tuition Recovery Fund on or before June 30, 2007, and still in the possession of the institution as of July 1, 2007, shall be remitted by the institution to the Director of Consumer Affairs.

(4) It is the intent of the Legislature that, to the extent possible, the Department of Consumer Affairs shall pay claims found to be owed and payable by the Bureau for Private Postsecondary and Vocational Education to students from the Student Tuition Recovery Fund between June 30, 2007, and July 1, 2008, inclusive.

SEC. 3. Section 3 of Chapter 67 of the Statutes of 2007 is amended to read:

Sec. 3. (a) Any institution that is approved by an accrediting agency recognized by the United States Department of Education, that has entered into a voluntary agreement under paragraph (3) of subdivision (b) of Section 1 of Chapter 67 of the Statutes of 2007, is authorized to add or modify a degree, diploma, certificate, add or change a location, change or modify the institution's name, or undergo a change of ownership or control from July 1, 2007, to July 1, 2008, inclusive, and, thereafter, upon the filing of notice to the Department of Consumer Affairs accompanied by documentation of the approval of that action by that institution's accrediting agency, if that approval is required by the institution's accrediting agency.

(b) From close of business on June 30, 2007, until close of business on July 1, 2008, inclusive, wherever in law there is a reference to an institution "approved by the Bureau for Private Postsecondary and Vocational Education," this shall mean any school that has entered into, and is complying with, a voluntary agreement under paragraph (3) of subdivision (b) of Section 1 of Chapter 67 of the Statutes of 2007.

(c) Until July 1, 2008, the Board of Barbering and Cosmetology may approve a school that has not been licensed by the Bureau for Private Postsecondary and Vocational Education pursuant to subdivision (a) of Section 7362 of the Business and Professions Code, if the school does all of the following:

(1) Commences operations between July 1, 2007, and December 31, 2008.

(2) Enters into a voluntary agreement with the Director of Consumer Affairs under paragraph (3) of subdivision (b) of Section 1 of Chapter 67 of the Statutes of 2007.

(3) Provides a course of instruction approved by the board.

(4) Complies with all laws, rules, and regulations applicable to schools approved by the board.

(5) Obtains a license or approval from the bureau or its successor agency no later than six months after the bureau is reauthorized.

SEC. 4. Section 9 of Chapter 67 of the Statutes of 2007 is amended to read:

Sec. 9. Private postsecondary educational institutions that have a valid approval to operate, including, but not necessarily limited to, a license to operate, and instructors holding a valid certificate of authorization for service, from the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, shall retain those approvals, licenses, or certificates of authorization for purposes of interpreting other provisions of applicable law that refer or relate to the issuance of a license or registration and meeting qualifications for licensing examinations. Those approvals shall be effective through January 1, 2009, unless a later enacted statute modifies, extends, or deletes that date.

SEC. 5. Section 10 of Chapter 67 of the Statutes of 2007 is amended to read:

Sec. 10. Sections 1 to 8, inclusive, of Chapter 67 of the Statutes of 2007 shall be repealed on July 1, 2008, unless a later enacted statute, that is enacted before July 1, 2008, deletes or extends that date.

SEC. 6. (a) (1) The Bureau for Private Postsecondary Education is hereby established in the Department of Consumer Affairs.

(2) The bureau shall not commence operations unless and until a statute is enacted that creates a new California Private Postsecondary Education Act that provides functions and responsibilities of the bureau. The bureau shall have the following general duties and responsibilities, including, but not necessarily limited to, all of the following:

(A) Review and approval of private postsecondary and vocational educational institutions.

(B) Review and investigation of student complaints.

(C) Administration of the Student Tuition Recovery Fund.

(D) Outreach to students.

(E) The collection and dissemination of appropriate information regarding regulations required by any subsequent legislation.

(F) Establishing a reasonable fee structure that will fund its operations.

(G) The collection of fees relating to, and general responsibility for, the oversight of private postsecondary and vocational educational institutions in the State of California.

(3) The bureau shall succeed to any and all rights and claims of the former Bureau for Private Postsecondary and Vocational Education that may have

been asserted in any judicial or administrative action pending on July 1, 2007, and shall take any action reasonably necessary to assert and realize those rights and claims in its own name.

(b) The bureau shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former bureau in the performance of the duties, powers, purposes, responsibilities, and jurisdictions that are vested in the bureau.

(c) The bureau has the responsibility for approving and regulating private postsecondary educational institutions. The bureau shall have, as its objective, the development of a strong, vigorous, and widely respected sector of private postsecondary and vocational education.

(d) Protection of the public shall be the highest priority for the Bureau for Private Postsecondary and Vocational Education in exercising its approval, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(e) The Director of Consumer Affairs may assign and delegate his or her duties under Chapter 67 of the Statutes of 2007, as it is amended by this act, and under Section 6 of this act, to a bureau chief, subject to the other provisions of this section.

(f) The bureau chief may redelegate any of his or her powers under this section to a designee. The bureau chief shall be appointed by the Governor and confirmed by vote of a majority of the membership of the Senate, and is exempt from the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(g) The director, in accordance with the State Civil Service Act, may appoint and fix the compensation of clerical, inspection, investigation, evaluation, and auditing personnel of the bureau, as may be necessary to carry out this section.